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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

DONALD RAY HILL,

Defendant and Appellant.

B264750

(Los Angeles County
Super. Ct. No. VA037435)

APPEAL from an order of the Superior Court of Los Angeles County, Olivia Rosales, Judge. Affirmed.

Richard L. Fitzer, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On November 15, 1996, defendant, Donald Ray Hill, pled guilty to attempted first degree residential burglary. (Pen. Code, §§ 664, 459.)¹ Defendant admitted four prior convictions allegations within the meaning of sections 667, subdivisions (b) through (i) and 1170.12 were true. And, defendant admitted that three prior serious felony convictions within the meaning of section 667, subdivision (a)(1) were likewise true. He was sentenced to 40 years to life in state prison. On March 13, 2015, he sought resentencing pursuant to sections 1170.126 and 1170.18. The trial court denied the petition. Defendant appeals from the denial order.

We appointed counsel to represent defendant on appeal. After examining the record, appointed appellate counsel filed an “Opening Brief” in which no issues were raised. Instead, appointed appellate counsel requested this court independently review the entire record on appeal pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441. (See *Smith v. Robbins* (2000) 528 U.S. 259, 277-284.) On March 10, 2016, we advised defendant that he had 30 days within which to personally submit any contentions or arguments he wished us to consider. No response has been received. We have examined the entire record and are satisfied appointed appellate counsel has fully complied with his responsibilities.

We affirm the denial order. Defendant is ineligible for resentencing under section 1170.126 because he is serving an indeterminate term for attempted first degree burglary, which is a serious felony. (§§ 1170.126, subd. (e)(1), 1192.7, subds. (c)(18) & (c)(39).) Defendant is ineligible for resentencing under section 1170.18 because attempted first degree burglary is not among the offenses specified in subdivision (a) of that provision.

¹ Further statutory references are to the Penal Code.

The order is affirmed.

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TURNER, P.J.

We concur:

BAKER, J.

RAPHAEL, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.